

[First Reprint]

**SENATE, No. 1418**

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**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

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INTRODUCED FEBRUARY 27, 2006

**Sponsored by:**

**Senator NICHOLAS ASSELTA**

**District 1 (Cape May, Atlantic and Cumberland)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

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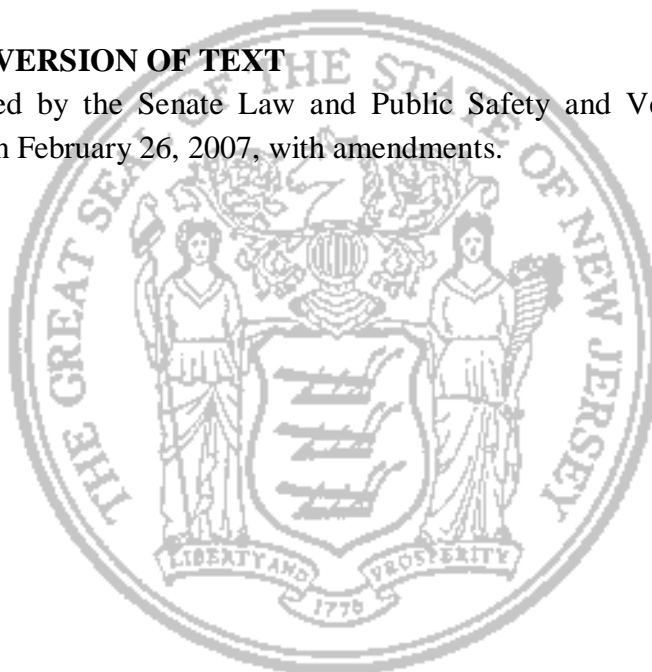
**Senators Vitale, Sweeney, T.Kean, Karcher and Allen**

**SYNOPSIS**

Skinner's and Michelle's Law; increases penalties for leaving scene of motor vehicle accident resulting in death or serious bodily injury.

**CURRENT VERSION OF TEXT**

As reported by the Senate Law and Public Safety and Veterans' Affairs Committee on February 26, 2007, with amendments.



**(Sponsorship Updated As Of: 3/13/2007)**

1 AN ACT concerning knowingly leaving the scene of a motor vehicle  
2 accident resulting in death or serious bodily injury, designating  
3 the act as "Skinner's <sup>1</sup>and Michelle's Law" and amending  
4 P.L.1997, c.111 and N.J.S.2C:44-1.

5  
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*

8  
9 1. Section 1 of P.L.1997, c.111 (C.2C:11-5.1) is amended to  
10 read as follows:

11 1. A motor vehicle operator who knows he is involved in an  
12 accident and knowingly leaves the scene of that accident under  
13 circumstances that violate the provisions of R.S.39:4-129 shall be  
14 guilty of a crime of the **[third]** second degree if the accident results  
15 in the death of another person. **[The presumption of**  
16 **nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to**  
17 **persons convicted under the provisions of this section.]**

18 If the evidence so warrants, nothing in this section shall be  
19 deemed to preclude an indictment and conviction for aggravated  
20 manslaughter under the provisions of N.J.S.2C:11-4 or vehicular  
21 homicide under the provisions of N.J.S.2C:11-5.

22 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
23 provisions of law, a conviction arising under this section shall not  
24 merge with a conviction for aggravated manslaughter under the  
25 provisions of N.J.S.2C:11-4 or for vehicular homicide under the  
26 provisions of N.J.S.2C:11-5 and a separate sentence shall be  
27 imposed upon each such conviction.

28 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
29 provisions of law, when the court imposes multiple sentences of  
30 imprisonment for more than one offense, those sentences shall run  
31 consecutively.

32 For the purposes of this section, neither knowledge of the death  
33 nor knowledge of the violation are elements of the offense and it  
34 shall not be a defense that the operator of the motor vehicle was  
35 unaware of the death or of the provisions of R.S.39:4-129.

36 (cf: P.L.2003, c.55, s.2)

37  
38 2. Section 2 of P.L. 1997, c.111 (C.2C:12-1.1) is amended to  
39 read as follows:

40 2. A motor vehicle operator who knows he is involved in an  
41 accident and knowingly leaves the scene of that accident under  
42 circumstances that violate the provisions of R.S.39:4-129 shall be  
43 guilty of a crime of the **[fourth]** third degree if the accident results  
44 in serious bodily injury to another person. The presumption of

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted February 26, 2007.

1 nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to  
2 persons convicted under the provisions of this section.

3 If the evidence so warrants, nothing in this section shall be  
4 deemed to preclude an indictment and conviction for aggravated  
5 assault or assault by auto under the provisions of N.J.S.2C:12-1.

6 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
7 provisions of law, a conviction arising under this section shall not  
8 merge with a conviction for aggravated assault or assault by auto  
9 under the provisions of N.J.S.2C:12-1 and a separate sentence shall  
10 be imposed upon each conviction.

11 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
12 provisions of law, whenever in the case of such multiple  
13 convictions the court imposes multiple sentences of imprisonment  
14 for more than one offense, those sentences shall run consecutively.

15 For the purposes of this section, neither knowledge of the serious  
16 bodily injury nor knowledge of the violation are elements of the  
17 offense and it shall not be a defense that the driver of the motor  
18 vehicle was unaware of the serious bodily injury or provisions of  
19 R.S.39:4-129.

20 (cf: P.L.2003, c.55, s.3)

21

22 3. N.J.S.2C:44-1 is amended to read as follows:

23 2C:44-1. Criteria for Withholding or Imposing Sentence of  
24 Imprisonment. a. In determining the appropriate sentence to be  
25 imposed on a person who has been convicted of an offense, the  
26 court shall consider the following aggravating circumstances:

27 (1) The nature and circumstances of the offense, and the role of  
28 the actor therein, including whether or not it was committed in an  
29 especially heinous, cruel, or depraved manner;

30 (2) The gravity and seriousness of harm inflicted on the victim,  
31 including whether or not the defendant knew or reasonably should  
32 have known that the victim of the offense was particularly  
33 vulnerable or incapable of resistance due to advanced age, ill-  
34 health, or extreme youth, or was for any other reason substantially  
35 incapable of exercising normal physical or mental power of  
36 resistance;

37 (3) The risk that the defendant will commit another offense;

38 (4) A lesser sentence will depreciate the seriousness of the  
39 defendant's offense because it involved a breach of the public trust  
40 under chapters 27 and 30, or the defendant took advantage of a  
41 position of trust or confidence to commit the offense;

42 (5) There is a substantial likelihood that the defendant is  
43 involved in organized criminal activity;

44 (6) The extent of the defendant's prior criminal record and the  
45 seriousness of the offenses of which he has been convicted;

46 (7) The defendant committed the offense pursuant to an  
47 agreement that he either pay or be paid for the commission of the  
48 offense and the pecuniary incentive was beyond that inherent in the

1 offense itself;

2 (8) The defendant committed the offense against a police or  
3 other law enforcement officer, correctional employee or fireman,  
4 acting in the performance of his duties while in uniform or  
5 exhibiting evidence of his authority; the defendant committed the  
6 offense because of the status of the victim as a public servant; or the  
7 defendant committed the offense against a sports official, athletic  
8 coach or manager, acting in or immediately following the  
9 performance of his duties or because of the person's status as a  
10 sports official, coach or manager;

11 (9) The need for deterring the defendant and others from  
12 violating the law;

13 (10) The offense involved fraudulent or deceptive practices  
14 committed against any department or division of State government;

15 (11) The imposition of a fine, penalty or order of restitution  
16 without also imposing a term of imprisonment would be perceived  
17 by the defendant or others merely as part of the cost of doing  
18 business, or as an acceptable contingent business or operating  
19 expense associated with the initial decision to resort to unlawful  
20 practices;

21 (12) The defendant committed the offense against a person who  
22 he knew or should have known was 60 years of age or older, or  
23 disabled; and

24 (13) The defendant, while in the course of committing or  
25 attempting to commit the crime, including the immediate flight  
26 therefrom, used or was in possession of a stolen motor vehicle.

27 b. In determining the appropriate sentence to be imposed on a  
28 person who has been convicted of an offense, the court may  
29 properly consider the following mitigating circumstances:

30 (1) The defendant's conduct neither caused nor threatened  
31 serious harm;

32 (2) The defendant did not contemplate that his conduct would  
33 cause or threaten serious harm;

34 (3) The defendant acted under a strong provocation;

35 (4) There were substantial grounds tending to excuse or justify  
36 the defendant's conduct, though failing to establish a defense;

37 (5) The victim of the defendant's conduct induced or facilitated  
38 its commission;

39 (6) The defendant has compensated or will compensate the  
40 victim of his conduct for the damage or injury that he sustained, or  
41 will participate in a program of community service;

42 (7) The defendant has no history of prior delinquency or  
43 criminal activity or has led a law-abiding life for a substantial  
44 period of time before the commission of the present offense;

45 (8) The defendant's conduct was the result of circumstances  
46 unlikely to recur;

47 (9) The character and attitude of the defendant indicate that he is  
48 unlikely to commit another offense;

1 (10) The defendant is particularly likely to respond affirmatively  
2 to probationary treatment;

3 (11) The imprisonment of the defendant would entail excessive  
4 hardship to himself or his dependents;

5 (12) The willingness of the defendant to cooperate with law  
6 enforcement authorities;

7 (13) The conduct of a youthful defendant was substantially  
8 influenced by another person more mature than the defendant.

9 c. (1) A plea of guilty by a defendant or failure to so plead shall  
10 not be considered in withholding or imposing a sentence of  
11 imprisonment.

12 (2) When imposing a sentence of imprisonment the court shall  
13 consider the defendant's eligibility for release under the law  
14 governing parole, including time credits awarded pursuant to Title  
15 30 of the Revised Statutes, in determining the appropriate term of  
16 imprisonment.

17 d. Presumption of imprisonment. The court shall deal with a  
18 person who has been convicted of a crime of the first or second  
19 degree by imposing a sentence of imprisonment unless, having  
20 regard to the character and condition of the defendant, it is of the  
21 opinion that his imprisonment would be a serious injustice which  
22 overrides the need to deter such conduct by others.  
23 Notwithstanding the provisions of subsection e. of this section, the  
24 court shall deal with a person who has been convicted of theft of a  
25 motor vehicle or of the unlawful taking of a motor vehicle and who  
26 has previously been convicted of either offense by imposing a  
27 sentence of imprisonment unless, having regard to the character and  
28 condition of the defendant, it is of the opinion that his imprisonment  
29 would be a serious injustice which overrides the need to deter such  
30 conduct by others.

31 e. The court shall deal with a person convicted of an offense  
32 other than a crime of the first or second degree, who has not  
33 previously been convicted of an offense, without imposing a  
34 sentence of imprisonment unless, having regard to the nature and  
35 circumstances of the offense and the history, character and  
36 condition of the defendant, it is of the opinion that his imprisonment  
37 is necessary for the protection of the public under the criteria set  
38 forth in subsection a., except that this subsection shall not apply if  
39 the person is convicted of any of the following crimes of the third  
40 degree: theft of a motor vehicle; unlawful taking of a motor vehicle;  
41 eluding; if the person is convicted of a crime of the third degree  
42 constituting use of a false government document in violation of  
43 subsection c. of section 1 of P.L.1983, c.565 (C.2C:21-2.1); if the  
44 person is convicted of a crime of the third degree constituting  
45 distribution, manufacture or possession of an item containing  
46 personal identifying information in violation of subsection b. of  
47 section 6 of P.L.2003, c.184 (C.2C:21-17.3); or if the person is  
48 convicted of a crime of the third or fourth degree constituting bias

1 intimidation in violation of N.J.S.2C:16-1; or if the person is  
2 convicted of a crime of the third [or fourth] degree under [the  
3 provisions of] section [1 or] 2 of P.L.1997, c.111 (C.[2C:11-5.1  
4 or] 2C:12-1.1).

5 f. Presumptive Sentences. (1) Except for the crime of murder,  
6 unless the preponderance of aggravating or mitigating factors, as set  
7 forth in subsections a. and b., weighs in favor of a higher or lower  
8 term within the limits provided in N.J.S.2C:43-6, when a court  
9 determines that a sentence of imprisonment is warranted, it shall  
10 impose sentence as follows:

11 (a) To a term of 20 years for aggravated manslaughter or  
12 kidnaping pursuant to paragraph (1) of subsection c. of  
13 N.J.S.2C:13-1 when the offense constitutes a crime of the first  
14 degree;

15 (b) Except as provided in paragraph (a) of this subsection to a  
16 term of 15 years for a crime of the first degree;

17 (c) To a term of seven years for a crime of the second degree;

18 (d) To a term of four years for a crime of the third degree; and

19 (e) To a term of nine months for a crime of the fourth degree.

20 In imposing a minimum term pursuant to 2C:43-6b., the  
21 sentencing court shall specifically place on the record the  
22 aggravating factors set forth in this section which justify the  
23 imposition of a minimum term.

24 Unless the preponderance of mitigating factors set forth in  
25 subsection b. weighs in favor of a lower term within the limits  
26 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a  
27 presumptive term of life imprisonment. Unless the preponderance  
28 of aggravating and mitigating factors set forth in subsections a. and  
29 b. weighs in favor of a higher or lower term within the limits  
30 authorized, sentences imposed pursuant to 2C:43-7a.(2) shall have a  
31 presumptive term of 50 years' imprisonment; sentences imposed  
32 pursuant to 2C:43-7a.(3) shall have a presumptive term of 15 years'  
33 imprisonment; and sentences imposed pursuant to 2C:43-7a.(4)  
34 shall have a presumptive term of seven years' imprisonment.

35 In imposing a minimum term pursuant to 2C:43-7b., the  
36 sentencing court shall specifically place on the record the  
37 aggravating factors set forth in this section which justify the  
38 imposition of a minimum term.

39 (2) In cases of convictions for crimes of the first or second  
40 degree where the court is clearly convinced that the mitigating  
41 factors substantially outweigh the aggravating factors and where the  
42 interest of justice demands, the court may sentence the defendant to  
43 a term appropriate to a crime of one degree lower than that of the  
44 crime for which he was convicted. If the court does impose  
45 sentence pursuant to this paragraph, or if the court imposes a  
46 noncustodial or probationary sentence upon conviction for a crime  
47 of the first or second degree, such sentence shall not become final  
48 for 10 days in order to permit the appeal of such sentence by the

1 prosecution.

2 g. Imposition of Noncustodial Sentences in Certain Cases. If the  
3 court, in considering the aggravating factors set forth in subsection  
4 a., finds the aggravating factor in paragraph a.(2) or a.(12) and does  
5 not impose a custodial sentence, the court shall specifically place on  
6 the record the mitigating factors which justify the imposition of a  
7 noncustodial sentence.

8 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-  
9 11), the presumption of imprisonment as provided in subsection d.  
10 of this section shall not preclude the admission of a person to the  
11 Intensive Supervision Program, established pursuant to the Rules  
12 Governing the Courts of the State of New Jersey.  
13 (cf: P.L. 2003, c.184, s.4)

14

15 4. This act shall take effect immediately.